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RHHMUNA/CDR USPACOM HONOLULU HI PRIORITY
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SUBJECT: LABOR LAW REVISION TO ATTRACT FDI

REF: 05 KATHMANDU 2723

Ordinance Published

1. (U) On January 31, the government promulgated a revision to the 1991 Labor Law intended to boost foreign direct investment (FDI). The revision opened the door for appointment of up to fifteen percent non-Nepali nationals as managers, executive directors and experts in firms. Existing laws did not allow foreign managers. The revision gives more power to management to hire and fire employees, a move seen as necessary to attract foreign investment. The revision supports the creation of an independent committee to determine the minimum salary of employees, a role the government currently maintains. With the revision, firms have the right to completely or partially shut down and lay off employees with a three-month advance notice to the government, and employees would have to inform the government thirty-days in advance if they planned to go on strike.

Industry Welcomes Revision

2. (SBU) Chandi Raj Dhakal, Chairman of the Federation of Nepal Chambers of Commerce, told Emboff that this revision was "an absolute necessity" to create favorable conditions for investment in Nepal. He claimed that the revisions were needed to meet World Trade Organization commitments and were supported by the World Bank. Rajib Upadhya, Senior External Specialist at the World Bank, told Emboff that he had just received a copy of the finalized ordinance and would have to review it in more detail before fully commenting. However, he asserted that the ordinance appeared to take into consideration World Bank concerns regarding labor flexibility. He noted that labor flexibility was one of four conditions that Nepal had to meet before Nepal was eligible for a World Bank Poverty Reduction Strategy Credit II loan (reftel).

Trade Unions Fear Labor Rights Sidelined

3. (SBU) Laxman Basnet, President of Nepal Trade Union Congress (NTUC), lamented to Emboff that despite provisions in the Labor Law that stated the government should consult with labor unions and industry when revising the Law, the government had only consulted with industry. The government

told labor unions they could review the revision once implemented as they had fulfilled their requirement to consult by discussing with industry. As he had only heard about the changes, Basnet could only surmise that this revision would give full authority to management to act according to its wishes, sidelining labor rights. He commented, "now the Labor Act should be named the Industry Act." He explained that it appeared the revision would give full authority to management to hire and fire at will without explanation to employees as previously required. He noted that the revision would allow firms to hire new employees without giving preference to existing employees. He did not understand why the revision would call for an independent committee, as the government previously fixed the minimum salary on the basis of tripartite agreement between management, government and labor unions. He stated that the provision to strike would remain the same as in current legislation.

Comment

¶4. (SBU) Although much of Nepal distrusts government intervention, a revision in the labor law had long been in the offing and was necessary. Opening up sectors to foreign managers is a welcome change. Whether the law sidelines labor unions will bear monitoring. Just as important, political instability and the Maoist insurgency will continue to discourage foreign investors, despite what appear to be positive changes in the regulation of Nepal's labor market.

MORIARTY